

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN JOE MCKENNEY**, on February 6, 2003 at 8:00 A.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Joe McKenney, Chairman (R)
Rep. Jim Keane, Vice Chairman (D)
Rep. Donald Steinbeisser, Vice Chairman (R)
Rep. Bob Bergren (D)
Rep. Rod Bitney (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Nancy Fritz (D)
Rep. Dave Gallik (D)
Rep. Kathleen Galvin-Halcro (D)
Rep. Ray Hawk (R)
Rep. Bob Lawson (R)
Rep. Rick Maedje (R)
Rep. Gary Matthews (D)
Rep. Scott Mendenhall (R)
Rep. Penny Morgan (R)
Rep. Allen Rome (R)
Rep. Sandy Weiss (D)
Rep. Bill Wilson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Bart Campbell, Legislative Branch
Alberta Strachan, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 205 (1/30/03); HB 472 (1/31/03);
HB 494 (1/31/03)
Executive Action: HB 494 Do Pass

HEARING ON HB 205

Sponsor: REP. EVE FRANKLIN, HD 42, Great Falls

Opening Statement by Sponsor:

REP. FRANKLIN read the title of the bill: An act revising Montana's insurance privacy laws to comply with the federal Gramm-Leach-Bliley Act and the Health Insurance Portability and Accountability Act of 1996; allowing a limited exemption from the privacy act for entities covered by the Health Insurance Portability and Accountability Act of 1996 privacy regulations; requiring national notice forms to refer to the specific Montana notice form; authorizing disclosure of certain non-medical information to a lien holder mortgagee, assignee, or lessor.

{Tape: 1; Side: A; Approx. Time Counter: 10 - 54}

Proponents' Testimony:

Jill Gerdrun, Auditor's Office, explained the new changes in the bill, and provided testimony on the Auditor's Office view of the bill.

EXHIBIT (buh26a01)

{Tape: 1; Side: A; Approx. Time Counter: 54 - 344}

Tonya Ask, Blue Cross/Blue Shield of Montana, said this bill was an extremely complex bill and the issue of privacy and privacy protection is a very complex issue. She said she was only going to speak of the bill on the health insurance side. This bill deals with every type of insurance that any consumer in Montana may need. Health insurance is a big area and much of what Ms. Gerdrun discussed does refer to the health side. Blue Cross is currently regulated under the Insurance Privacy Protection Act in Montana. She indicated the federal government is to impose some administrative simplification and privacy protection. Much of the health information goes through electronic transmittal. The federal government now, with private carriers, has done retrofitting of the systems in order to make sure that information is protected as it goes from the hospital to the insurer so the patient may receive his claim payment. She also discussed the effective date.

{Tape: 1; Side: A; Approx. Time Counter: 344 - 411}

Frank Cote, Health Association of Montana, said he supports the bill and the testimony of Ms. Ask.

{Tape: 1; Side: A; Approx. Time Counter: 412 - 421}

Pat Melby, Montana Medical Association, said much of the medical information of health insurers is generated by the members and

the insured physicians. Physicians are complying with the standards. They support the portions of this bill intended to coordinate Montana law.

{Tape: 1; Side: A; Approx. Time Counter: 422 - 435}

Denise Pizzini, New West Health Services, Montana Benefits and Health Connections, said she concurs with the testimony of Ms. Ask. They are in the process of complying fully with the mandates related to privacy of health care information, and appreciate having to pay to comply with only one regulatory framework instead of two.

{Tape: 1; Side: A; Approx. Time Counter: 435 - 458}

Don Allen, Montana Association of Insurance Financial Advisors, said they agreed with the testimony of Ms. Ask.

{Tape: 1; Side: A; Approx. Time Counter: 459 - 490}

Greg Van Horssen, State Farm Insurance, said they agree that protections should be in place for this sensitive information. Information should be disclosed appropriately. He also said he stands as a conditional proponent. State Farm Insurance also carries some health insurance. This bill does not work across all lines of insurance. This bill creates significant impacts on the uniformity front. If someone agrees with disclosing of information, tracking shouldn't be done.

{Tape: 1; Side: A; Approx. Time Counter: 491 - Tape: 1; Side: B; Approx. Time Counter: 78}

Opponents' Testimony:

Jacqueline Lenmark, American Counsel of Life Insurers, American Insurance Association and Alliance of American Insurers, said these three associations represent life insurers and property casualty insurers. In associations, member companies write all three lines of insurance. She then presented amendments to the bill and explained them.

EXHIBIT (buh26a02)

{Tape: 1; Side: B; Approx. Time Counter: 79 - 441}

John Metropolis, Helena attorney, Farmers Insurance Group and The National Association of Independent Insurers, said they stand in limited opposition. He said the department did a good job in taking care of the concerns regarding health insurers.

{Tape: 1; Side: B; Approx. Time Counter: 442 - 479}

Informational Testimony: None

Questions from Committee Members and Responses:

REP. MATTHEWS asked Ms. Gerdrun to explain the notice form. **Ms. Gerdrun** stated that the national notice does not necessarily refer to Montana specifically. If they have a separate state notice, they must refer to a state-specific notice form. The reference must indicate that state law controls privacy standards for residents of that state. That state law may be more protective.

{Tape: 1; Side: B; Approx. Time Counter: 479 - Tape: 2; Side A; Approx. Time Counter: 47}

Closing By Sponsor:

The sponsor closed.

{Tape: 2; Side: A; Approx. Time Counter: 48 - 99}

HEARING ON HB 472

Sponsor: **REP. JIM KEANE, HD 36, Butte**

Opening Statement by Sponsor:

REP. KEANE said this bill started two years ago when they were asked to step up and visit a high school and educate the younger people about the legislative process. He indicated he was one of the people signing up for the task. Last September, Legislative Services provided the students with information, and attended the class at the high school. Rep. Keane decided he would probably learn more by experiencing the project. He called the teacher and asked if the students might be interested in proposing some legislation. The teacher went back to the high school and he and the students wrote up four bills and submitted them to Rep. Keane. Of the four bills, this one would have had the least economic impact on the state. The bill presented today is the bill proposed by the students of Butte High School. They provided the language and contacted the person in Legislative Services who drafted the bill.

{Tape: 2; Side: A; Approx. Time Counter: 107 - 135}

Proponents' Testimony:

Pete Patterson, Butte High School, said the economic situation of Montana is not perfect. Many times Montanans need to entice companies to come to their counties. They must attract them by giving them tax breaks and other incentives. When these tax breaks run out, many times the companies leave and their employees are unemployed. This bill allows for the unemployed

workers to receive severance pay for their work. When the counties tried to attract these businesses, they made a commitment to the business. When the employees worked for the business, they also made a commitment. Many of these employees made a commitment to work for the rest of their working lives but the business made no commitment to them. It is time for the businesses to commit to the counties and to the workers.

{Tape: 2; Side: A; Approx. Time Counter: 136 - 160}

Stephanie Dwyer, Butte High School, said this bill gives the employees the benefit of being able to search for another job when they know the company they are employed with is going to pull out and move from their area. The employees are given a 60-day notice before the company moves. They can begin to look for another job at that time. After the company leaves they offer severance pay. The last week of employment, employees receive the severance pay for the number of years they served that company. This will help the state from paying unemployment benefits and employees will not file for unemployment.

{Tape: 2; Side: A; Approx. Time Counter: 161 - 178}

Brian O'Leary, Butte High School, said the passing of this bill will give the employee of a business which has left the state, more money for their family. It will give them extra time to search for a new job. The worry of being short on money will be less. Not having the extra money could cause the panic of becoming bankrupt. This bill will give any employee, from a company that leaves the state, more time if they want to switch professions. If that employee worked there for ten years, they will get ten weeks severance pay. That gives them a hands-up approach and makes the company responsible. This bill could cause companies to think twice about leaving the state. If the company decides not to leave, it will strengthen our economy because we will still have that company, and Montana will still have all of those workers and they will not be unemployed. Page 2, section 2, line 24 states: "If the employee accepts employment at the new location, severance pay will not be paid to that employee." This may entice companies to transfer their employees to a new location and the employees will not be unemployed.

{Tape: 2; Side: A; Approx. Time Counter: 179 - 223}

Jake Powell, Butte High School, said he agreed with the previous proponents.

{Tape: 2; Side: A; Approx. Time Counter: 224 - 229}

Greg Smelich, Butte High School, said he also agrees with the previous testimony.

{Tape: 2; Side: A; Approx. Time Counter: 230 - 235}

Erica Wetter, Butte High School, said she agrees with the previous proponents.

{Tape: 2; Side: A; Approx. Time Counter: 236 - 239}

Mike Trebenna, Butte High School, said under section 2, line 21, it indicates an "exception is the relocation or termination of a current establishment" is necessary. This bill protects the business in case of disaster.

{Tape: 2; Side: A; Approx. Time Counter: 240 - 247}

John Mike Dennehy, Butte High School teacher, said he liked the ideas that business and workmen have more of a partnership. In Butte, they had numerous businesses who walked out and left the community "holding the bag." If there would be a strong partnership established between business and the working people that would be a coup for the state.

{Tape: 2; Side: A; Approx. Time Counter: 248 - 265}

Darrell Holzer, AFL-CIO, said they offered support. He thanked the students of Butte High School, the future work force of our state. The intent of this bill is right on target and he stated he liked the comparison in terms of the equal partnership and commitment between the employer and employee. The downside is, until something occurs on the national level, the demand for this kind of legislation is going to continue to grow. Based on the most current data acquired, in manufacturing alone, since 1998, nationwide 2 million manufacturing jobs have been lost in the United States and the number continues to grow. It is absolutely the right approach. Perhaps it might cause businesses that want to consider relocating or shutting down their operations to choose to stay in the state.

{Tape: 2; Side: A; Approx. Time Counter: 266 - 301}

Opponents' Testimony:

Aidan Myhre, Montana Chamber of Commerce and National Federation of Independent Businesses, said she wanted to applaud the students who are the future leaders of the state. She hoped they would continue their efforts and someday be legislators. Affecting public policy is a wonderful opportunity. In the fifth generation Montana there is absolutely nothing more disappointing than the newspaper headlines and the businesses from Montana when they leave the state. The state is trying very hard to attract businesses to Montana, not only to grow the businesses in the state, but to attract businesses from other states. Consequently, there are two sides to every story, both employees and employers. Montana should focus on expanding our existing businesses and finding out more reasons why they would even think about leaving. Businesses close and leave the state for reasons

such as access to natural resources, proximity to their suppliers and distributors, the ability to track trained work forces and focus on technology. If someone is in business the cost of doing business is a huge factor in whether or not a business stays in the state or chooses to leave. If the businesses that are now established stay here, more businesses will come to Montana.

{Tape: 2; Side: A; Approx. Time Counter: 306 - 358}

Informational Testimony:

John Andrew, Department of Labor & Industry, said he would be available for questions.

Questions from Committee Members and Responses:

REP. BOOKOUT-REINICKE asked Ms. Dwyer if she would be opposed to an amendment that would say it would affect only companies that received tax breaks. **Ms. Dwyer** said the reason they drafted this bill was because companies coming to Montana were offered tax breaks and when these tax breaks expire, the businesses leave.

{Tape: 2; Side: A; Approx. Time Counter: 377 - 387}

REP. GALVIN-HALCRO asked Mr. Andrew if this bill would apply to an employee who has been employed for less than three years. **Mr. Andrew** said this was the way he understood the bill. She then asked Mr. Patterson his reasons for leaving those employees who had been employed for less than three years out of the bill.

Mr. Patterson said he did not feel that the company or the workers had made enough of a commitment. They also had not accepted a full partnership with the company.

{Tape: 2; Side: A; Approx. Time Counter: 387 - 424}

Closing By Sponsor:

REP. KEANE said young people do think for themselves as the students demonstrated concerning the economy of Montana. This bill does have some potential. He then thanked the students for working on this bill, and encouraged them to continue using their creative abilities for the state. Hopefully, we can retain them in the state. Students are being trained to conform with the committees' rules and regulations and testimony and he encouraged passing this bill.

{Tape: 2; Side: A; Approx. Time Counter: 424 - 443}

CHAIRMAN MCKENNEY then thanked the students of Butte High School for their participation in the legislative process, and also for the professionalism in testifying. He said they could offer classes to some of the professional lobbyists.

HEARING ON HB 494

Sponsor: REP. BILL WILSON, HD 46, Great Falls

Opening Statement by Sponsor:

REP. WILSON read the title of the bill: An act revising the laws governing licensure of physicians, providing for temporary licensure of persons in an approved residency program upon certain conditions.

{Tape: 2; Side: B; Approx. Time Counter: 443 - 500}

Proponents' Testimony:

Beda Lovitt, Montana Medical Association, said they were the entity requesting this bill. For many years, physicians in private practice have served as supervisors for physicians in residency training programs in other states and programs including the Montana Family Practice Residency Program. These residents train for two to three months in rotation with a physician in various areas for educational opportunities. They practice in small towns and provide health care for those underserved populations which is a benefit for Montana. Following the development of the MFPR, statutes were changed and the rules of the Montana Medical Examiners reflected those changes. Prior to that, it required a one-year internship. After the program was instituted, it changed to a two-year approved post graduate program of training for physicians licensure. She then distributed a letter from Franklin S. Newman, Ph.D, Montana Office of Rural Health and an e-mail from Greg Rice, M.D.

EXHIBIT (buh26a03)

EXHIBIT (buh26a04)

{Tape: 2; Side: B; Approx. Time Counter: 5 - 81}

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. MAEDJE asked Ms. Lovitt to explain "unrestricted license," and asked if there are any licenses which are restricted. She referred the question to Jeanie Worsch, Executive Director, Board of Medical Examiners, who stated that there are two sections within the Board statutory language. One section allows for the Board to grant an unrestricted license which allows the family practitioner who has been given an unrestricted license. That physician may practice in any area of medicine. A hospital, physician and insurance company may choose to restrict that

license. There is another section within the Board which is a restricted license. This is a specific statute that was granted by the legislature to allow individuals not having the full scope of medical practice through a medical school to practice in their specialized field.

{Tape: 2; Side: B; Approx. Time Counter: 82 - 163}

Closing By Sponsor:

The sponsor closed.

{Tape: 2; Side: B; Approx. Time Counter: 164 - 177}

EXECUTIVE ACTION ON HB 494

Motion/Vote: REP. WILSON moved HB 494 DO PASS. Motion carried 18-0.

ADJOURNMENT

Adjournment: 10:10 A.M.

REP. JOE MCKENNEY, Chairman

ALBERTA STRACHAN, Secretary

JM/AS

EXHIBIT (buh26aad)